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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DANIEL HICKEY, )  
 )  
Defendant. )

No. CR 07-0634 MMC

UNITED STATES' SENTENCING  
MEMORANDUM

Sentencing Date: April 23, 2008  
2:30 p.m.

Court: The Honorable Maxine Chesney

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## I. INTRODUCTION

On November 28, 2007, defendant pleaded guilty to the indictment, which alleges one count of possession of child pornography, in violation of 18 U.S.C. § 2252(a)(4)(B). There was no plea agreement. Sentencing has been set for April 23, 2008.

Because defendant knowingly possessed thousands of images of child pornography on his computer, because many of these images depict very young children subject to abuse of the most serious kind, and because defendant has—by his own admission—engaged in this illegal activity for years, the government respectfully requests that this Court sentence defendant to a term of seventy-eight months, the low-end of the applicable Guidelines range.

## II. STATEMENT OF FACTS

This investigation began with a phone call by Ms. Doe<sup>1</sup> on June 17, 2007 to the San Francisco police department (SFPD). (Presentence Report at ¶ 6 [hereinafter PSR].) Ms. Doe, who is fifteen years old and defendant's granddaughter, reported that she saw child pornography on defendant's computer during the course of a weekend visit to his apartment. (PSR ¶ 6.) Ms. Doe stated that she saw child pornography on defendant's computer while attempting to download a picture from the internet. (PSR ¶ 6.) Ms. Doe also later saw defendant manipulating a picture of child pornography on the computer while she was watching television in another room of the apartment. (PSR ¶ 7.) Based on this information, SFPD received and executed a state search warrant for defendant's computer. (PSR ¶ 8.) A review of Mr. Hickey's computer revealed at least 5,000 images of child pornography saved on his computer hard drive in various folders labeled "My Pictures," "Pictures Downloaded from AOL," and "Saved From Mail." (PSR ¶ 8.)

The thousands of pictures collected by defendant include images of the most sadistic and disturbing kind. They include the following:

- A female child, approximately 3-4 years old, is having a male penis forced in her mouth.

The child is crying.

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<sup>1</sup> Because Ms. Doe is a minor, her true name has not been used. Ms. Doe's name is contained in the Presentence Report in this case, which has been filed under seal.

- 1 • A female child, approximately 3-4 years old, is naked and tied to a bed. Her legs are
- 2 spread out, exposing her genitals.
- 3 • A female child, approximately 5-6 years old, is lying on her back on a bed, holding her
- 4 genitals open with her fingers. The word “slut” is written in red and circled on her
- 5 stomach. The phrases “cut me” and “hurt me” are also written in red on her stomach.
- 6 • A female child, approximately 7 years old, is sitting naked on a chair, with her arms and
- 7 legs bound to the back of the chair.
- 8 • An infant girl, approximately 4 months old, has her legs spread out, and a male adult
- 9 penis is placed on her vagina.

10 After they executed the search warrant, SFPD contacted Child Protective Services (CPS).  
11 A CPS worker interviewed defendant and visited his home. Defendant told CPS that he has been  
12 viewing child pornography for three years and that he finds it “titillating.” (Child Protective  
13 Services Report on Daniel Hickey, 7/19/07, attached hereto as Exhibit C (filed under seal) at 2  
14 [hereinafter CPS Report].) Prior to the execution of the search warrant by SFPD, defendant and  
15 his son shared bunk beds in a bedroom, and his wife slept on the couch. (CPS Report at 2.)  
16 Defendant’s mother- and father in-law slept in the other bedroom. Defendant said he had been  
17 viewing child pornography for three years. (CPS Report at 2.) Defendant’s wife was aware that  
18 he viewed child pornography and had asked him to stop. (CPS Report at 3.)

19 Special Agent Gaztambide, the FBI agent investigating defendant’s case, spoke on the  
20 morning of October 12, 2007 with defendant’s daughter who is the mother of Ms. Doe, the  
21 granddaughter who originally saw the child pornography on defendant’s computer. When she  
22 learned that defendant was aware of her and her granddaughter’s involvement in the case, she  
23 became extremely upset. She stated that she is afraid of the defendant and is frightened that he  
24 might hurt her or her daughter. Defendant’s doctor also describes defendant as having “anger  
25 management difficulties.” (Letter of Dr. Shiplak to Judge Chesney, March 14, 2008, attached to  
26 Defendant’s Sentencing Memo).

27  
28 Defendant’s extensive child pornography collection also includes boys, as well as girls.

(PSR ¶ 12.) The National Center for Missing and Exploited Children has done an assessment of some of the images found on defendant's computer. That report indicates that many of the images found on defendant's computer are of known victims of child pornography. Several of these victims have provided victim impact statements, which the Probation Office has provided to this Court under seal. In one of the letters submitted by the mother of a child whose picture was found on defendant's computer, for example, the mother writes "[m]y daughter is a real person. She is exploited anew each and every time an image of her suffering is copied, traded or sold." (Letter of 2/20/06 at 3, submitted under seal by the Probation Office.) Another child victim of child pornography whose image was found on defendant's computer writes "[E]very time some one else [sees] pictures or videos of me it feels like they are the ones who hurt me to begin with." (Letter of JB, submitted under seal by the Probation Office.)

### III. GUIDELINES CALCULATION

The government agrees with the guidelines calculations contained in the Presentence Report prepared by the Probation Office. (PSR ¶¶ 22-35.)

Base Offense Level:	18	U.S.S.G. § 2G2.2(a)(2)
Specific Offense	+2	U.S.S.G. § 2G2.2(b)(2) (prepubescent minor)
Characteristics	+4	U.S.S.G. § 2G2.2(b)(4) (sadistic/masochistic)
	+2	U.S.S.G. § 2G2.2(b)(6) (use of computer)
	+5	U.S.S.G. § 2G2.2(b)(7)(D) (600 or more images)
Acceptance of Responsibility	-3	U.S.S.G. § 3E1.1
<b>Total</b>	<b>28</b>	

Defendant's criminal history category is I. The applicable Guidelines range, therefore, is **78-97** months. (PSR ¶ 35.)

### IV. 78 MONTHS IS A REASONABLE SENTENCE IN THIS CASE.

In determining the appropriate sentence in a criminal case, this Court must, first, calculate the sentence under the Guidelines and, second, evaluate the sentence for substantive

1 reasonableness in light of the factors set out in 18 U.S.C. § 3553(a). *United States v. Carty*, \_\_  
 2 F.3d \_\_, 2008 WL 763770 at \*8 (9th Cir. 2008) (en banc). In cases that are neither complex nor  
 3 unusual, “the Commission’s recommendation of a sentencing range will reflect a rough  
 4 approximation of sentences that might achieve § 3553(a)’s objectives.” *Id.* (internal citations  
 5 and quotations omitted). A Guidelines sentence will “usually be reasonable.” *Id.* at \*6.

6 **A. Defendant Purposely Collected Thousands of Images of Child Pornography**  
 7 **and Stored Them on His Computer Hard Drive.**

8 This case is neither complex nor unusual. Defendant possessed thousands of images of  
 9 child pornography on his home computer; these images were saved on his computer hard drive in  
 10 folders labeled “My Pictures,” “Pictures Downloaded from AOL,” and “Saved From Mail.”  
 11 Defendant’s own granddaughter observed him graphically manipulating the images on his  
 12 computer. Before his arrest in this case, defendant was an instructor in computer skills at a local  
 13 college. There is no question here of incidental possession, of someone who unwittingly  
 14 accessed child pornography or simply viewed child pornography one time and then tried to get  
 15 rid of it. Defendant purposefully sought out images of child pornography. Defendant then  
 16 further manipulated these pictures on his own computer. Defendant selected and saved an  
 17 image, for example, that shows a young girl, who is lying on her back on a bed, holding her  
 18 genitals open with her fingers, and who has the word “slut” and the phrases “cut me” and “hurt  
 19 me” written in red and circled on her stomach.

20 **B. Consumers of Child Pornography—including the Defendant—Fuel a Demand**  
 21 **for Child Abuse of the Most Devastating Kind.**

22 “The distribution of child pornography feeds an industry that causes physiological,  
 23 emotional and mental trauma to the child victims.” *United States v. Meiners*, 485 F.3d 1211,  
 24 1213 (9th Cir. 2007). Indeed, the Ninth Circuit has held that child pornography trafficking is  
 25 “no less serious” than drug trafficking. *Id.*

26 Consumers of child pornography fuel demand for the unlawful production of this  
 27 material. “The greater the customer demand for child pornography, the more that will be  
 28

1 produced.” *United States v. Goldberg*, 491 F.3d 668, 672 (7th Cir. 2007). As the Eleventh  
 2 Circuit has recently observed, “pornography poses an even greater threat to the child victim than  
 3 does sexual abuse or prostitution. Because the child’s actions are reduced to a recording, the  
 4 photography may haunt him in future years . . . a child who has posed for a camera must go  
 5 through life knowing that the recording is circulating within the mass distribution system for  
 6 child pornography.” *United States v. Pugh*, 515 F.3d 1179, 1196 (11th Cir. 2008) (*quoting New*  
 7 *York v. Ferber*, 258 U.S. 747 (1982) (internal citations and authorities omitted)). Even if  
 8 consumers of child pornography do not themselves molest children, their actions contribute to  
 9 the abuse of children. “Children are exploited, molested, and raped for the prurient pleasure of  
 10 [defendant] and others who support suppliers of child pornography.” *United States v. Goff*, 501  
 11 F.3d 250, 259 (3rd Cir. 2007).

12 In this case, the letters submitted by the victims of the pornography that defendant saved  
 13 on his computer bear out the devastating effects of child pornography. As the mother of one of  
 14 the victims whose image was found on defendant’s computer relates, “I’ve watched my daughter  
 15 transformed from a buoyant, cheerful child full of energy and enthusiasm, to an anxious and  
 16 fretful shadow of her former self.” (Letter of 2/20/06 at 3, submitted under seal by the  
 17 Probation Office.)

18 **C. Defendant’s “Psychological Evaluation” Lacks Credibility and Is Irrelevant to**  
 19 **this Court’s Determination.**

20 In preparation for sentencing, defendant has procured an evaluation by a psychologist,  
 21 Jules Burstein. (Report of Jules Burstein, Jan. 2, 2008, attached to Defendant’s Sentencing  
 22 Memo [hereinafter Burstein Report].) Mr. Burstein’s report lacks credibility and is irrelevant to  
 23 the factors this Court is directed to consider under 18 U.S.C. § 3553(a).

24 Much of Mr. Burstein’s report describes defendant’s personal history, which appears to  
 25 have no connection with the questions defense counsel asked Mr. Burstein to address. This  
 26 portion of the report is nothing more than a vehicle to repeat the same information about  
 27 defendant’s upbringing that defendant related to the Probation Officer and which already appears  
 28



1 in the PSR.

2 Further, Mr. Burstein relied almost exclusively on self-reported information provided by  
3 the defendant. Some of this information is flatly untrue. For example, defendant “denie[d] any  
4 criminal justice history” prior to his 2007 arrest. In fact, in 1986, defendant agreed to pretrial  
5 diversion for having used U.S. Treasury checks issued to a deceased person. (PSR ¶ 40; Letter  
6 from United States Secret Service to the FBI, Oct. 22, 2007, attached hereto as Exhibit A.)

7 Other information is inconsistent with prior statements made by defendant. For  
8 example, in the interview with CPS, defendant said he is titillated by viewing child pornography.  
9 (CPS Report at 2.) In his interview with Mr. Burstein, however, defendant denied any sexual  
10 arousal to minors. It is hard to imagine why a person would collect over 5,000 images of child  
11 pornography on his computer if this statement were true, but Mr. Burstein does not question  
12 defendant’s self-serving assertion.

13 In writing the report, Mr. Burstein spoke with defendant’s daughter, defendant’s wife, a  
14 friend of the defendant, and a Mormon Bishop who has known the defendant for many years.  
15 Mr. Burstein made no effort to contact the investigating agent or the prosecutor to secure any  
16 other information. Mr. Burstein did not view any of the image from Mr. Hickey’s computer and  
17 made no attempt to do so. Further, Mr. Burstein provides no information about the scientific  
18 reliability of the tests he conducted.

19 Most importantly, Mr. Burstein’s conclusions—no matter how tenuous their basis—are  
20 simply irrelevant to this Court’s consideration. Mr. Burstein states that defendant does not “pose  
21 an imminent danger of molesting minors.” (Burstein Report at 10.) Whether this assertion is  
22 true or not, defendant is not charged with molesting minors. “The federal penal code treats the  
23 possession of child pornography and child abuse as distinct offenses.” *United States v. Pugh*,  
24 515 F.3d 1179, 1193 (11th Cir. 2008); *United States v. Goff*, 501 F.3d 250, 259 (3d Cir. 2007)  
25 (noting that, where a defendant is charged with child pornography possession but is not charged  
26 with molestation “pointing out that he hadn’t committed it is . . . irrelevant”). As the victim  
27 impact statements in this case show, viewers of child pornography independently harm the  
28

1 children depicted in the images.

2 The recidivist concern in this case, therefore, is about collecting child pornography—not  
3 physical abuse of a child. Here, Mr. Burstein’s report is less helpful to the defendant. The report  
4 notes that defendant continued to view child pornography, even after he promised his wife that  
5 he would stop. (Burstein Report at 7.) The report makes no predictions about defendant’s  
6 likelihood of reoffending with regard to child pornography.

7  
8 As an appropriate response to defendant’s crime, Mr. Burstein suggests that defendant  
9 undertake a course of “couples therapy.” (Burstein Report at 12.) It is hard to image a report  
10 with as little understanding of the seriousness of the crime to which defendant has already  
11 admitted his guilt than that produced by Mr. Burstein.

12 **D. Defendant’s Age and Health Are Mitigating Factors.**

13 As this Court will no doubt recall, the government sought defendant’s pretrial detention  
14 based, in part, on the government’s concern about potential abuse of his child due to defendant’s  
15 unusual sleeping arrangements with his young son. In this phase of the case, defendant stressed  
16 his active involvement in his son’s life. Through his counsel, defendant described how he drove  
17 the son to school, attended his sporting events, and helped him with his homework. In addition,  
18 before his arrest, defendant also worked as a teacher at a local community college and served as  
19 a minister in his church. This is a man, after all, who has been married four times, is married to a  
20 woman twenty-nine years his junior, has a fourteen year-old son, and is apparently a major  
21 figure in the life of his wife and parents-in-law.

22 Further, the letter provided by defense counsel from the owner of the building which  
23 defendant currently manages describes a long list of duties which defendant currently performs  
24 for him, including “maintaining the appearance and cleanliness of the building . . . tak[ing] in  
25 large boxes and mail . . . and empty[ing] trash bins.” In addition, defendant lists the apartment  
26 for rent, checks the credit history of potential tenants, takes care of plumbing issues, and hires  
27 contractors to make repairs. (Letter of William Joe, Feb. 29, 2008, attached hereto as Exhibit B.)  
28

1 In contrast to this active and vigorous life, defendant now seeks to paint a picture of a  
2 man on the verge of acute kidney failure. Defendant essentially claims that any prison sentence  
3 would constitute a death warrant. To that end, defendant has produced letters from his doctors in  
4 support of a lenient sentence in this case. While the government expresses no view on these  
5 doctors' medical expertise, these letters do not reflect an accurate understanding of defendant's  
6 crime. For example, the letter from Doctor Daroff, defendant's psychiatrist, describes  
7 defendant's crime as a "lapse in judgment." (Letter of Dr. Daroff to Judge Chesney, March 7,  
8 2008, attached to Defendant's Sentencing Memo.) Defendant's doctor from the Veteran's  
9 Administration does not appear to have any particular knowledge of the medical facilities  
10 available at any of the federal prisons and simply asserts that defendant's health cannot be  
11 monitored "in a stressful environment like prison." (Letter of Dr. Shiplak to Judge Chesney,  
12 March 14, 2008, attached to Defendant's Sentencing Memo).

13 The government acknowledges that defendant has medical ailments—not surprising for a 77  
14 year-old man. For this reason, the government believes that a sentence at the low end of the  
15 guidelines is reasonable in this case.

16 **E. Defendant's Sentence Must Afford Adequate Deterrence To This Serious**  
17 **Crime.**

18 The four major sentencing goals set out in 18 U.S.C. § 3553(a) are retribution (just  
19 punishment), rehabilitation, incapacitation, and deterrence. 18 U.S.C. § 3553(a); *see also United*  
20 *States v. Pugh*, 515 F.3d 1179, 1194 (11th Cir. 2008). Congress has repeatedly broadened the  
21 proscriptions against child pornography and has amended the Guidelines several times to  
22 increase the severity of the Guidelines applicable to child pornography. *Pugh*, 515 F.3d at 1198  
23 (detailing Congressional action with regard to child pornography). With these actions, Congress  
24 has underscored the gravity of the crime of possession of child pornography. Defendant's  
25 sentence should reflect the seriousness of the crime he has committed.

26 In addition, this Court should impose a sentence that adequately deters future potential  
27 perpetrators of child pornography. Deterrence is particularly compelling in the child  
28

1 pornography context. *Id.* As the Seventh Circuit has stated

2 Young children were raped in order to enable the production of the pornography that  
 3 the defendant both downloaded and uploaded . . . . The greater the customer demand  
 4 for child pornography, the more that will be produced. Sentences influence behavior,  
 5 or so at least Congress thought when in 18 U.S.C. § 3553(a) it made deterrence a  
 6 statutory sentencing factor. The logic of deterrence suggests that the lighter the  
 7 punishment for downloading and uploading child pornography, the greater the  
 8 customer demand for it and so the more will be produced.

9 *United States v. Goldberg*, 491 F.3d 668, 672 (7th Cir. 2007) (internal citations omitted).

10 Several circuit courts have recently highlighted the importance of § 3553(a)’s directive to  
 11 consider both the gravity of the offense and deterrence when imposing sentences in child  
 12 pornography cases. In a series of recent decisions, courts of appeals have “consistently  
 13 overturned zero-imprisonment or other sharply downward-varying sentences . . . on the ground  
 14 that the resulting sentence were unreasonably lenient.” *Pugh*, 515 F.3d at 1203 (reversing  
 15 district court’s imposition of a probationary sentence as unreasonable under *Gall* and  
 16 *Kimbrough*); *United States v. Fink*, 502 F.3d 585 (6th Cir. 2007) (vacating sentence of 70  
 17 months’ imprisonment); *United States v. Goff*, 501 F.3d 250, 262 (3rd Cir. 2007) (vacating  
 18 sentence of 4 months and 5 years’ supervised release); *United States v. Goldberg*, 491 F.3d 668,  
 19 674 (7th Cir. 2007) (vacating sentence of one-day imprisonment and 10 years’ supervised  
 20 release); *United States v. Borho*, 485 F.3d 904 (6th Cir. 2007) (vacating sentence of 72 months’  
 21 imprisonment and 5 years’ supervised release).

22 Although defendant here was charged only with possession of child pornography, there is  
 23 strong evidence that defendant also received child pornography. After all, it is hard to imagine  
 24 how defendant could have possessed images on his computer without first having received them.  
 25 Further, the child pornography found on his computer was saved in folders entitled, “My  
 26 Pictures,” “Pictures Downloaded from AOL,” and “Saved From Mail.” (PSR ¶ 8.) Receipt of  
 27 child pornography carries a mandatory-minimum sentence of five years. 18 U.S.C.  
 28 § 2252(a)(b)(1). It also carries a higher base offense level under the Guidelines than does  
 possession. U.S.S.G. § 2G2.2(a)(2). The government is not suggesting that defendant should be  
 subject to the higher penalties associated with receipt. As a practical matter, however, this Court

1 should consider that defendant must have actively sought out—and received—child pornography  
2 to amass a collection of thousands of images.

3 **V. THE GOVERNMENT REQUESTS THAT THIS COURT VIEW THE IMAGES**  
4 **FOUND ON DEFENDANT’S COMPUTER BEFORE IMPOSING SENTENCE IN THIS**  
5 **CASE.**

6 In anticipation of sentencing, the United States respectfully requests that this Court review  
7 the images that form the basis of this prosecution. While undoubtedly appropriate in all cases  
8 involving child pornography, this Court’s review of the images is especially critical in this case,  
9 due to the nature of the images.

10 **VI. THIS COURT SHOULD REMAND DEFENDANT TO CUSTODY IMMEDIATELY**  
11 **AFTER SENTENCE IS IMPOSED.**

12 Upon the pronouncement of defendant’s sentence, the United States will move for his  
13 immediate detention under 18 U.S.C. § 3143(b)(2). This section specifically deals with “release  
14 or detention pending appeal by the defendant,” and in these circumstances provides that  
15 detention is essentially mandatory: “The judicial officer shall order that a person who has been  
16 found guilty of an offense in a case described in subparagraph (A) . . . of subsection (f)(1) of  
17 section 3142 [including child pornography felonies] and sentenced to a term of imprisonment,  
18 and who has filed an appeal . . . be detained.” 18 U.S.C. § 3143(b)(2).

19 Because child pornography felonies are “crimes of violence” under “subparagraph (A) . . .  
20 of subsection (f)(1) of section 3142” the mandatory detention provisions are triggered. *See*  
21 § 3156(a)(4)(C) (defining “crime of violence” for purposes of the Bail Reform Act to include  
22 “any felony under chapter . . . 110,” which includes child pornography possession).

23 The only exception to § 3143(b)(2)’s mandatory detention provision is found in § 3145(c).  
24 This section allows the release of someone in defendant’s position only if: (1) he can show by  
25 clear and convincing evidence that he is neither a flight risk nor a danger to the community; and  
26 (2) “it is clearly shown that there are exceptional reasons why such person’s detention would not  
27 be appropriate.” § 3145(c). There are no exceptional reasons in this case why defendant’s  
28

1 detention is not appropriate. Accordingly, the defendant should be remanded to the custody of  
2 the United States Marshal at the conclusion of his sentencing hearing.

### 3 4 **VII. CONCLUSION**

5 Because of the number of images in this case, because of the severity of the abuse  
6 depicted in these images, and because defendant's involvement with child pornography was both  
7 active and longstanding, defendant's conduct squarely falls within the kind of conduct targeted  
8 by 18 U.S.C. § 2252(a)(4). Congress and the Sentencing Commission have determined that the  
9 appropriate sentencing range for this conduct, for a person with no criminal history as calculated  
10 under the Guidelines, is 78-97 months. Because of defendant's age and health conditions, the  
11 government believes that a low-end guidelines sentence is appropriate in this case. It is also a  
12 reasonable sentence in light of the factors set out in 18 U.S.C. § 3553(a), particularly just  
13 punishment and deterrence.

14 The government respectfully asks that this Court sentence defendant to a term of  
15 imprisonment of 78 months. This sentence constitutes both an appropriate sentence under the  
16 guidelines and a substantively reasonable sentence in light of the factors set out in 18 U.S.C.  
17 § 3553(a).

18  
19  
20 DATED: April 15, 2008

Respectfully submitted,

21  
22 JOSEPH P. RUSSONIELLO  
23 United States Attorney

24  
25 /s/ Allison Danner  
26 ALLISON M. DANNER  
27 Assistant United States Attorney  
28

# **EXHIBIT A**



U.S. Department of Homeland Security  
UNITED STATES SECRET SERVICE

San Francisco Field Office  
345 Spear Street, Suite 530  
San Francisco, CA 94105

October 22, 2007

Special Agent Binh T. Pham  
Federal Bureau of Investigation  
Oakland Resident Agency  
180 Grand Avenue, Suite 1100  
Oakland, CA 94612

Subject: Request for Information

This letter is pursuant to the 10/15/07 faxed request for information regarding Daniel Marshall Hickey.

Daniel Hickey was a suspect in case # 408-750-50229, wherein he was accused of forging and uttering U.S. Treasury checks issued to Fred Schilt, after Schilt was deceased. Between 1983 and 1985, there were nine checks forged and negotiated, totaling approximately \$1,537.00.

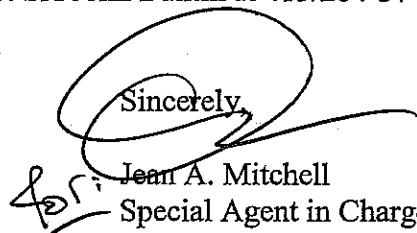
On November 20, 1985, Daniel Hickey was interviewed by Special Agent Michael Levin at the San Francisco Field Office. Hickey gave a written statement confessing to forging and negotiating the Treasury checks in question.

On May 27, 1986, Daniel Hickey signed an agreement for Pretrial Diversion for a One Count violation of Title 18 USC, Section 510 – Forgery/Uttering U.S. Treasury Check. The case was handled by Assistant United States Attorney Floy E. Dawson, Northern District of California.

On May 20, 1987, Daniel Hickey successfully completed his one year term of Pretrial Diversion and was discharged from the supervision of the United States Probation Office.

If you have any additional questions, please contact SA John Dantin at 415/264-3743 of the Financial Crimes squad.

Sincerely,

  
Jean A. Mitchell  
Special Agent in Charge



# **EXHIBIT B**

FROM : DAN HICKEY

William Joe  
20 Citrus Ct.  
Hillsborough, CA 94010  
650-347-8281 (h)  
650-577-9585 (cell)

Friday, February 29, 2008

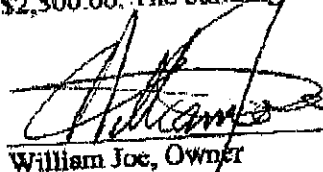
Re: Dan Hickey, Resident/Manager, 2935 Clay St., San Francisco, CA,  
94115

To Whom It May Concern:

I own the 6-unit apartment building at 2935 Clay St., San Francisco. Dan Hickey has resided in the building continuously almost 40 years. Dan is the manager of the building, and consequently, in exchange for his services as manager, his rent is \$900.00 per month.

Dan's duties include: Maintaining the appearance and cleanliness of the building, maintain building safety, keep the building in compliance with City Fire Codes, insure the building remains safe from intruders, takes in large boxes and mail via FedEx, etc., and deliver to tenants, keeps a key file for tenants who lose their keys, sets timer on indoor and outdoor building lights to coincide with amount of seasonal daylight, makes small repairs to apartments when needed, sweeps out the garages periodically, empties trash bins in lobby into recycling bins in the garage, mops lobby and stairwells, keeps laundry room clean and laundry and dryer machines working properly.

Additionally, when we have a vacant apartment, Dan lists the apartment for rent on Craig's List, checks credit and references of potential tenants. Insures that vacant apartments are clean and attractive for new tenants. He takes care of plumbing issues in all the apartment and hires contractors to make major repairs. Dan, his wife and son, live in apartment #2 which is a 2-bedroom, 1 and 1/2 baths, with view, parking included, apartment. Other comparable apartments in the building rent for \$2,500.00. The building is located in Pacific Heights.

  
William Joe, Owner

(signature)

# **EXHIBIT C**

**Under Seal**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DANIEL HICKEY )  
 )  
Defendant. )

No. CR 07-0634 MMC

EXHIBIT C TO THE UNITED STATES'  
SENTENCING MEMORANDUM

UNDER SEAL